

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN FRANKLIN MYERS,)	
)	
Petitioner,)	
)	1:13CV860
v.)	1:08CR81-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

JOHN FRANKLIN MYERS,)	
)	
Petitioner,)	
)	1:13CV1089
v.)	1:08CR96-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On February 24, 2014, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. No objections to the Recommendation have been filed. Therefore, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #40] is hereby adopted.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence [Doc. #30] and [Corrected Motion \[Doc. #36\] in 1:08CR81-1](#) is GRANTED, that the Amended Judgment [Doc. #28] in that case is VACATED, and that the Indictment [Doc. #1] in that case is DISMISSED.

IT IS FURTHER ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence [Doc. #143] in case 1:08CR96-1 is GRANTED, and that the sentence set out in the Amended Judgment [Doc. #114] in that case is VACATED. The Clerk is directed to set this matter for resentencing. Petitioner remains in custody, and the United States Attorney is directed to produce Petitioner for the resentencing hearing. The Probation Office is directed to prepare a Supplement to the Presentence Investigation Report in advance of the hearing. Counsel will be appointed to represent Petitioner at the resentencing hearing.

This the 10th day of April, 2014.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge